

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MIGUEL A. DAVILA,

Plaintiff,

v.

COMMONWEALTH OF PENNSYLVANIA,  
et al.,

Defendants.

CIVIL ACTION NO. 3:11-cv-1092

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SMYSER)

**ORDER**

NOW this 8<sup>th</sup> day of February, 2012, after consideration of Magistrate Judge J. Andrew Smyser's Report and Recommendation (Doc. 8), **IT IS HEREBY ORDERED THAT** the Report and Recommendation is **ADOPTED IN PART** and **REJECTED IN PART** as follows:

- (1) The Magistrate Judge's determination that the Pennsylvania Department of Corrections Plaintiffs be dismissed as to the Americans with Disabilities Act and the Rehabilitation Act claims is **REJECTED**.
- (2) The remainder of the Report and Recommendation is **ADOPTED**.
- (3) This matter is **RECOMMITTED** to the Magistrate Judge.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge